

TITLE 4: BUSINESS AND SPECIAL LICENSES, REGULATIONS

DIVISION 2: SPECIAL LICENSES AND REGULATIONS

Chapter 5: CABLE TELEVISION SYSTEMS.

Sections:

- 42.051 Title.
- 42.052 Purpose and Scope.
- 42.053 Continuation.
- 42.054 Application.
- 42.055 Statutory Provisions Applicable.
- 42.056 Definitions.
- 42.057 License Requirement.
- 42.058 License Area.
- 42.059 Term.
- 42.0510 License Nonexclusive.
- 42.0511 License Review Board.
- 42.0512 Composition of License Review Board.
- 42.0513 License Review Board.
- 42.0514 Conduct of License Review Board Meetings.
- 42.0515 License Application Forms.
- 42.0516 License Application and Transfer Fees.
- 42.0517 License Application Procedures.
- 42.0518 Granting of License.
- 42.0519 Denial of License.
- 42.0520 Acceptance of License.
- 42.0521 Establishment and Extension of Service.
- 42.0522 Transfer or Abandonment of License.
- 42.0523 Modification of License.
- 42.0524 License Area Expansion.
- 42.0525 Fees, Costs, and Other Charges.
- 42.0526 Rates.
- 42.0527 Insurance Requirements.
- 42.0528 Bonding Requirements and Other Security.
- 42.0529 Recourse Against Bonds and Other Security.
- 42.0530 Indemnification.
- 42.0531 PEG Availability.
- 42.0532 PEG Utilization.
- 42.0533 Periodic License Review.
- 42.0534 Design and Construction Requirements.
- 42.0535 Technical Standards and Requirements.
- 42.0536 Undergrounding of Cable.
- 42.0537 Street Occupancy.
- 42.0538 Test and Compliance Procedures.
- 42.0539 Service To Applicants,
- 42.0540 Service Standards and Requirements.
- 42.0541 Consumer Service Standards.
- 42.0542 Notice of Construction and Reconstruction.
- 42.0543 Notices to Subscribers.
- 42.0544 Termination of Subscriber Services.
- 42.0545 Subscriber Complaints to the Licensee.
- 42.0546 Subscriber Complaint Procedure Requirements.
- 42.0547 Subscriber Complaints to the County.
- 42.0548 Rights Reserved to the County.
- 42.0549 Rights of Subscribers.
- 42.0550 Equal Employment Opportunities.
- 42.0551 Continuity of Service.
- 42.0552 Retention of Licensee's Records.
- 42.0553 Licensee Reporting Requirements.
- 42.0554 Severability.
- 42.0555 Force Majeure.
- 42.0556 Civil Penalties, Default and Revocation Proceedings.

42.051 Title.

This chapter shall be known and cited as the San Bernardino County Cable Television Systems Chapter.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.052 Purpose and Scope.

It is the purpose of this chapter to standardize practices in the cable television industry, to provide for administration of cable television licenses, to regulate rates to the extent allowable by federal, state, and local laws when necessary for the public good, and to regulate the operation of licenses for the purpose of protecting and promoting the public health, safety, and welfare in the interest of the subscriber, licensee, and the public.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2908 (1984); Amended Ordinance #3440 (1991);

42.053 Continuation.

The provisions of this chapter, insofar as they are the same as existing chapter provisions relating to the same subject matter, shall be construed as restatements and continuations thereof, and not as new enactments.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended Ordinance #2355 (1979); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.054 Application.

All the provisions of this chapter apply to licenses issued pursuant to this chapter. All provisions of this chapter shall, including license fees, apply to existing licensed operating cable television systems in San Bernardino County, unless FCC or PUC regulations require otherwise.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2908 (1984); Amended Ordinance #3440 (1991);

42.055 Statutory Provisions Applicable.

All licenses for a cable television system shall be granted pursuant to the Federal Cable Communications Policy Act of 1984 and Section 53066 of the Government Code of the State of California.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2754 (1983); Amended Ordinance #2908 (1984); Amended Ordinance #3440 (1991);

42.056 Definitions.

For the purpose of this chapter, the following terms, phrases, words, and their derivation, shall have the meaning set forth herein. Words used in the present tense include the future tense, plural words include the singular, and singular words include the plural. Words not specifically defined shall be given their common and ordinary meaning. The word "shall" is also mandatory and not merely directory.

(a) "Access" means the physical extension of cables, wires, conduit and associated fixtures capable of carrying cable service to a point immediately adjacent to the structure or facility to be serviced.

(b) "Advertising receipts" means any and all income, compensation, fees, and other consideration received directly or indirectly by Licensee derived from any form of advertising, relating directly or indirectly to the Licensee's license activities and operations.

(c) "Affiliate" means, when used in relation to any person, another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

(d) "Basic cable service" means any service tier which includes the retransmission of local television broadcast signals including all public, educational, and government use (PEG) channels and all broadcast channels required to be carried pursuant to federal law.

(e) "Basic subscriber receipts" means any and all income, compensation, fees, and other consideration received directly or indirectly by the licensee from subscribers in payment for the basic service of the cable television system.

(f) "Board of Supervisors" means the Board of Supervisors of the County of San Bernardino. If any territory covered by the license falls within the limits of any incorporated city, then as to such incorporated area "board" means the legislative body of such city (e.g., the city council).

(g) "Cable Act" means the Federal Cable Communications Policy Act of 1984, Public Law No. 98-549, 98 stat. 2779 (1984), which amends the Federal Communications Act of 1934 and as hereafter amended.

(h) "Cablecast" means the distribution of programming which originates within the facilities of the cable television system.

(i) "Cable service" means any transmission to or from subscribers and institutional users of video programming and other programming services.

(j) "Cable TV Coordinator" means that person charged with the primary responsibility for the administration of this chapter.

(k) "Cable TV system" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service, but does not include:

(1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;

(2) A facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless the facility or facilities uses any public right of way.

(3) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title 2 of the Cable Act except that such facility shall be considered a cable system (other than for purposes of section 621(c)) to the extent such facility is used in the transmission of video programming directly to subscribers; or

(4) Any facilities of any electric utility used solely for operating its electric utility systems.

(l) "Cable TV Coordinator" designates a person in the Department of Weights and Measures charged with the responsibility for administering the cable television chapter provisions of the County.

(m) "Channel," or "cable channel" means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television signal as defined by the Federal Communications Commission.

(n) "Commencement of operations" means the time and date when sufficient distribution facilities have been installed so as to permit the offering of full service to a dwelling unit located within the license area and such service is actually subscribed to by a resident of the license area.

(o) "Construction" means any new construction, reconstruction, upgrade, mandatory extensions or reconfigurations of the cable television system.

(p) "Construction commencement" means the time and date in a given phase when the first connection is physically made to a utility pole, or undergrounding of cables is initiated, after engineering and mapping is complete, and after all necessary permits and authorizations have been obtained.

(q) "Construction completion" means the point and time when all cable system equipment specified in the license as required under Section 42.0518(b)(5) of this chapter has been installed by the licensee so as to permit the offering of cable service to all the potential subscribers in the license area, as well as the provision, in an operational state, of all facilities required by the license agreement.

(r) "County" means the County of San Bernardino, a political subdivision of the State of California.

(s) "Current Industry Standards" means that level of technical performance or capacity, service, plant or other equipment, production or other facilities, or construction techniques for which there is a reasonable market demand and which has been developed and demonstrated to be workable, and such that it would be economically feasible and viable in the license area during the term of the license.

(t) "Department" means the Department of Weights and Measures, or successor thereto, of the County of San Bernardino.

(u) "Director" means the Director of the Department of Weights and Measures of the County of San Bernardino.

(v) "Division" means the Division of Consumer Affairs of the County of San Bernardino.

(w) "Enhanced service" means any service distributed over the subscriber system for which there is a per channel(s), per unit(s), or per package charge to the subscriber.

(x) "FCC" means the Federal Communications Commission, its designee, or any successor thereto.

(y) "Gross revenues" means any and all income, compensation, fees, and other consideration received directly or indirectly by the licensee and/or its affiliates, and any other person or entity in which the licensee has a financial interest or which has a financial interest in the licensee, arising from or attributable to the operation of the cable television system within the unincorporated areas of the County, including, but not limited to, the following sources:

(1) Installation fees, disconnect and reconnect fees, and fees for cable service derived from operations within the authorized license area;

(2) Basic subscriber receipts;

(3) Enhanced service receipts, including, but not limited to, income derived from per-program, or per-channel charges;

(4) Advertising receipts;

(5) Lease receipts; and

(6) Any other income from any source derived from licensee's licensed operations. Excluded are refundable deposits and sales, excise, and other taxes collected for direct pass-through to local, state, or federal governments.

(z) "Head end" means the electronic processing center for the distribution of the signals received from a master antenna or earth stations.

(aa) "Inferior reception quality" means a partial failure of sound or picture of one or more channels affecting one or more subscribers.

(bb) "Installation" means the connection of the system from feeder cable to subscriber's terminals, and the provision of actual service.

(cc) "Lease receipts" means any and all income, compensation, fees, and other consideration received directly or indirectly by the licensee from the lease or rental of license property, and compensation for any services in connection therewith, including but not limited to, studio and equipment rental and production costs of any channel permitted or designated by the FCC to be so leased or rented.

(dd) "License" means any authorization or renewal thereof granted hereunder by the county, whether such authorization is designated as a license, privilege, permit, franchise, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction, operation, and maintenance of a cable television system within a specified area in the unincorporated portions of the county. Any such authorization, in whatever form granted, shall not include any other license or permit as may be required by the county or any other governmental entity.

(ee) "License area" means that geographic portion of the unincorporated area of the county in which the licensee is authorized to construct, operate, and provide connections for a cable television system pursuant to the terms and conditions of the license, and may consist of not more than five (5) service areas.

(ff) "License expansion area" means that geographic portion of the unincorporated area of the county which may be added contiguous to an existing license area.

(gg) "Licensee" means a person, firm, or corporation granted a license by the board under this chapter, and its lawful successor, transferee, or assignee.

(hh) "License Payment Period" means the time period from the effective date of the license agreement through the end of the calendar year in which the license was granted, and each calendar year thereafter during the term of the license.

(ii) "License Review Board" means the board established under this chapter to evaluate applications for cable TV systems, make recommendations to the Board of Supervisors with respect to licenses issued under this chapter, to hear appeals of subscriber complaints, and to administer other related responsibilities.

(jj) "NCTA" means the National Cable Television Association.

(kk) "PEG" means public, educational, and governmental uses as defined in section 611 of the Cable Act.

(ll) "Person" means any individual, firm, partnership, association, corporation, joint venture, company, syndicate, club, business, common-law trust, society, or other legally recognized entity, whether for profit or, not for profit, but shall not mean the county.

(mm) "Property of Licensee" means all property owned, installed, or used within the county by a licensee in the conduct of a cable television system under authority of a license granted pursuant to this chapter.

(nn) "PUC" means the Public Utilities Commission of the State of California.

(oo) "Section" means any section, subsection, or provision of this chapter.

(pp) "Service Area" means that geographical portion of a license area containing not less than twenty percent (20%) of the license area's population within its boundaries as designated by the licensee.

(qq) "Service Tier" means a category of cable service or other services provided by a cable operator and for which a separate rate is charged by the cable operator.

(rr) "Street" means all of the following which have been or hereafter may be dedicated to the public and maintained under public authority or by others and located within the unincorporated area of the county: streets, roadways, highways, avenues, lanes, alleys, sidewalks, easements, rights-of-way, green belts, and similar public property and areas which the county shall determine to be included within the definition of "street" from time to time.

(ss) "Subscriber" means any person lawfully receiving for any purpose, any service of the licensee's cable television system, including the ultimate recipient of any distribution of the licensee's service.

(tt) "System outages" means the following interruptions to subscriber service:

(1) "System outage" -- total failure of sound and picture of all channels affecting at least ten percent (10%) of the system's subscribers.

(2) "Isolated outage" -- total failure of sound and picture of one or more channels affecting less than ten percent (10%) of the system's subscribers.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2908 (1984); Amended Ordinance #3440 (1991);

42.057 License Requirement.

No cable TV system shall within the unincorporated areas of San Bernardino County be allowed to begin construction, occupy or use the streets or public utility poles or rights-of-way, or operate without a license issued in accordance with the provisions of this chapter.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.058 License Area.

The County may grant one or more licenses for any area within the unincorporated portions of San Bernardino County. Each license area shall be defined by a legal description and such maps as required by the Department, to a scale prescribed by the Director, and which maps shall describe and specifically designate the initial and subsequent, if any, service areas.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.059 Term.

The term of any new license or renewal of an existing license shall not exceed fifteen (15) years, and shall be subject to earlier termination as hereinafter provided.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0510 License Nonexclusive.

Any license granted shall be nonexclusive. The County specifically reserves the right to grant, at any time, such additional licenses for cable television systems as it deems appropriate to the public interest, provided, however, that such additional grant shall not operate to materially modify, revoke, reduce, or terminate any rights previously granted to any licensee.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0511 License Review Board.

A License Review Board is hereby established to review license applications and make recommendations to the Board of Supervisors for licenses issued under this chapter, hear appeals of subscriber complaints, and to administer other related responsibilities as the Board of Supervisors may require.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0512 Composition of License Review Board.

(a) Membership. The members of the License Review Board shall consist of the following: the Director or his/her designee, who shall chair the License Review Board; the Assistant Administrative Officer for the General Services Group or his/her designer; the County Treasurer/Tax Collector or his/her designee; the Director of the County Department of Transportation or his/her designee; the Director of the Communications Division of the Office of Management Services or his/her designee; a representative from the Cable Television Industry who has no interest, direct or indirect in the matter under consideration; and a consumer lay person.

(b) Voting. Each member of the License Review Board shall have one (1) vote except for the Director who shall only vote in the event of a tie vote among the other voting members. The Director and four (4) members present shall constitute a quorum.

(c) Support. The Cable TV Coordinator shall provide staff support to the License Review Board as needed.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991); Amended Ordinance #3497 (1992);

42.0513 License Review Board.

Any matter which may come before the License Review Board shall be open to the public. The time, date, and place of meetings and hearings shall be determined by the Director.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended Ordinance #2355 (1979); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0514 Conduct of License Review Board Meetings.

At the time and place set for meetings of the License Review Board, or at the time and place which the meeting may be continued by the Director or his representative, the License Review Board shall hear an applicant, a Licensee, or interested party, who may testify and present any evidence as to the subject matter of such proceedings.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0515 License Application Forms.

Applicants shall obtain license application forms from the Department.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0516 License Application and Transfer Fees.

All license applications or applications to transfer a license, when filed, shall be accompanied by payment of a nonrefundable fee, which shall be in the form of cash, certified or cashier's check, or money order, payable to the County, to pay for the cost of processing and evaluating the application. Such fee amounts shall be set forth in the fee provisions of the County Code.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2775 (1983); Amended Ordinance #2908 (1984); Amended Ordinance #3440 (1991);

42.0517 License Application Procedures.

All license applications, when filed, shall be available for public inspection at places designated by the County within the proposed license area. Not later than sixty (60) days after any application has been received, one or more public meetings pursuant to Sections 42.0513 and 42.0514 shall be held on the application by the License Review Board. The License Review Board shall, within thirty (30) days following the final public meeting, or no more than ninety (90) days following the application's receipt, whichever occurs first, forward to the Board of Supervisors its evaluation of the application together with its findings and recommendations as to the granting or denial of a license. The Board of Supervisors shall then grant or deny the license within thirty (30) days following its receipt of the License Review Board's recommendations.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2908 (1984); Amended Ordinance #3440 (1991);

42.0518 Granting of License.

(a) Public Hearing. A license may be granted by the Board or Supervisors pursuant to this chapter following a public meeting conducted by the License Review Board.

(b) Requirements. Any license granted pursuant to this chapter will be granted only upon the applicant's satisfaction of the following criteria:

(1) Applicant's completion of such application form as the Director may deem necessary to properly evaluate the applicant's legal, technical, and financial qualifications;

(2) Proof of the applicant's ability to conduct a viable business operation for a minimum of two (2) years following the granting of a license;

(3) Proof of technical ability to provide current industry standards of performance with respect to quality of audio and video signals received by subscribers;

(4) A construction schedule designating service areas and describing the sequence in which service shall be extended within the license area pursuant to County Code Section 42.0521;

(5) Execution of a licensing agreement in such form and including such terms as may be required by the Board of Supervisors;

(6) Submission of Licensee's written procedure for receiving, acting upon, and resolving subscriber complaints pursuant to Section 42.0545 of this chapter; and

(7) Satisfaction of such other requirements as the Board of Supervisors may deem necessary.

(c) Filing of License. All licenses granted under this chapter shall be filed with the Clerk of the Board of Supervisors and a copy shall be maintained by the Department.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2754 (1983); Amended Ordinance #3440 (1991);

42.0519 Denial of License.

The following constitute grounds for denial of a license:

(a) Failure to satisfy application requirements.

(b) Knowingly making any false, misleading, or fraudulent statement of a material fact in the application for license or to the Cable Coordinator, Director, County employees, License Review Board, or Board of Supervisors with regard to a license application.

(c) Conviction within the past five (5) years of the applicant, or a principal officer, director, majority or controlling shareholder, or partner of the applicant of a crime of fraud, embezzlement, burglary, or theft.

(d) Previous violations by applicant, or a principal officer, director, majority or controlling shareholder, partner, or parent or subsidiary company of applicant of the Cable Act, laws of the State of California regarding the use or regulation of cable TV systems, or any County Code provision or rule or regulation adopted by the Board of Supervisors relating to cable TV systems.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2775 (1983); Amended Ordinance #3440 (1991);

42.0520 Acceptance of License.

The licensee shall within thirty (30) days after the granting of the license by the Board of Supervisors, file with the Director a performance bond, and/or other security pursuant to Section 42.0528, together with evidence of insurance as required by Section 42.0527. Any license granted by the Board of Supervisors pursuant to this chapter shall not be operative until such time as the Licensee satisfies the above requirements.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2754 (1983); Amended Ordinance #3440 (1991);

42.0521 Establishment and Extension of Service.

Except as provided under Government Code Section 53066.2, and subject to County approval, the licensee shall design and construct the cable system in a manner so as to provide the capability to pass every single-family dwelling unit, multiple-family dwelling, school, and public agency within the license area. Within one (1) year after receiving the license, the Licensee shall accomplish construction of an operable head-end and shall make cable service available to not less than one service area, and each year thereafter shall expand service coverage by no less than an additional service area per year so as to achieve one hundred percent (100%) build-out of the license area within the five (5) years following the grant of the license.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0522 Transfer or Abandonment of License.

(a) License Transfers. Any license granted hereunder shall be a privilege to be held for the benefit of the public. Said license cannot in any event be sold, transferred, leased, or disposed of, without the prior written consent of the County, and subject to such reasonable conditions as the Board of Supervisors may require. Consent to transfer will not be unreasonably withheld by the County.

(b) Methods of Transfer. for the purposes of this section, the term "transfer" shall include, but not be limited to, changes in the ownership of the cable TV system operated under the license by means of forced or voluntary sale, merger, consolidation, receivership, or sale of the majority or controlling interest of the Licensee's corporate stock.

(c) Consent to Transfer. In seeking the County's consent to any transfer of a license, the Licensee shall follow the application procedures set forth in Sections 42.0515 through 42.0520 of this chapter.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0523 Modification of License.

Upon the request of the Licensee or Director, the terms and conditions of any license granted under this chapter, may at any time during the term of the license be amended or modified at a public meeting by the Board of Supervisors, provided such amendment or modification is consistent with the Cable Act and rules and regulations of the FCC.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0524 License Area Expansion.

During the term of the license, should Licensee determine that any adjacent areas not included in the original license application warrant the extension of cable TV services, the Licensee may apply to the Department for approval to extend services to such areas.

(a) Application. Licensee shall apply to the Department for approval of such license area expansion. The application shall include, but not be limited to, maps of the area(s) to be constructed, a construction schedule, a copy of the Subscriber Complaint Record as required by Section 42.0546(b), and such other information as may be required by the Director.

(b) License Area Expansion Fee. All license area expansion applications, when filed, shall be accompanied by payment of a nonrefundable application fee, which shall be in the form of cash, certified or cashier's check, or money order to pay for the cost of processing and evaluating the application. Application fee amounts shall be set forth in the County Code fee provisions.

(c) Approval. Upon receipt of the Licensee's application for the license area expansion, the matter will be submitted to the License Review Board and Board of Supervisors in accordance with Section 42.0517.

(d) Term. After approval of the license area expansion by the Board of Supervisors, and upon notification by the Licensee that the construction of said area(s) has been completed, said area(s) shall be considered a part of the license area, and the term of the license for such expansion area(s) shall expire when the term of the original license expires. The Director shall provide written notice to the Licensee to this effect, and copies of said notice shall be filed with the Clerk of the Board and the Department.

(e) Service. As a condition to expansion of the license area, Licensee shall within five (5) years following approval of a license expansion area, complete all construction and provide all subscribers within that area with the same services at the same rates as charged other subscribers within the original license area.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0525 Fees, Costs, and Other Charges.

(a) Annual License Fee. As consideration for the license granted, Licensee shall pay to the Department in lawful money of the United States, payable to the County, during the life of the license, for each and every year, including the prorated portion of the year in which the license was granted, five percent (5%) of the gross revenues received by Licensee for all cable television services rendered to customers within the license area. License fees shall be due no later than first day of March of each year. In the event Licensee fails to make payment of the license fee on or before the due date, the County shall assess a late payment charge of ten percent (10%) of the amount due, with an additional ten percent (10%) accruing on the first day of each calendar month thereafter that the license fee remains unpaid. Any license fee more than ninety (90) days delinquent shall constitute a material breach of the terms of the license and is grounds for license revocation. The County reserves the right to change the amount of such license fee if the County determines such action to be appropriate and that it is not in conflict with federal law, FCC Rules and Regulations, or laws of the State of California.

(b) Other Fees. Fees regarding license grant, renewal, transfer, modification, and license area expansion shall be set forth in the fee provisions of the San Bernardino County Code.

(c) Cost of Technical Assistance. The Licensee shall pay all reasonable costs incurred by the County for any technical assistance deemed necessary by the County for obtaining independent verification of technical compliance with all license standards.

(d) Charge for Underreported Revenue. If the report of gross revenue made by Licensee should be found to be less than the amount of gross revenue disclosed by audit, the Licensee shall pay to the County the delinquent amount and all charges required by subsection (a) above, within thirty (30) days of billing thereof.

(e) Independent Audit at Licensee's Costs. The County reserves the right to require the Licensee to obtain, at Licensee's cost, an independent audit of gross revenue by certified public accountants as required by the County. The certified public accountant shall be required to certify in the audit that the license is in compliance with this chapter and the license agreement. This right shall be in addition to the County's right to conduct any other audit.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0526 Rates.

To the extent permitted by law, the County reserves the right to regulate the Licensee's rates for its services (excluding bulk rates and limited time promotional discounts).

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0527 Insurance Requirements.

The Licensee shall provide, and maintain, at its own expense during the term of its license, programs of insurance covering its operations hereunder, as set forth below. Such insurance shall be provided by insurer(s) authorized by the Insurance Commissioner of the State of California to transact business in the State of California. Satisfactory evidence of such insurance consisting of copies of the actual insurance policies and/or certificates of

insurance shall be delivered to the Director on or before the effective date of license. Insurance policies and certificates evidencing coverage shall name the County, its officers, agents, and employees as additional insureds with respect to Licensee's operations under the license, and shall contain express conditions that the County is to be given written notice by registered mail at least thirty (30) days in advance of any modification or termination of any insurance policy.

(a) Comprehensive General Liability Insurance. Licensee shall obtain comprehensive liability insurance endorsed for premises/operations, products/completed operations, contractual, broad form property damage, and personal injury with a combined single limit per occurrence as may be set by the County Risk Management Division. If the above insurance is written on a claims-made form, such insurance shall be endorsed to provide an extended reporting period of not less than five (5) years following termination of policy. Licensee shall also obtain comprehensive auto liability insurance endorsed for all owned and hired vehicles with a combined single limit per occurrence as may be set by the County Risk Management Division. Said amounts of insurance shall be subject to review and adjustment by the County, at the County's sole option at any time during the period of the license. In the event of such adjustment, Licensee agrees to provide insurance in such amounts as are determined by the County Risk Management Division, within thirty (30) days after written notice to do so from the Director.

(b) Worker's Compensation. Licensee shall obtain Worker's Compensation Insurance in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including employer's liability insurance with a limit as may be set by the County Risk Management Division covering all persons providing services on behalf of Licensee and all risk to such persons under the license. Licensee shall provide, if applicable, a certificate of consent to self-insure issued by the Director of Industrial Relations of the State of California. Should the Licensee utilize the self-insurance provision of this section, and should the Licensee's certification of consent to self-insure expire or be revoked, the Licensee shall be required to obtain Worker's Compensation Insurance prior to or upon said expiration or revocation.

(c) Uninsured Operations. No license operation shall commence until Licensee has complied with all the aforementioned provisions of this section, and any such operation shall be suspended during any period that Licensee fails to maintain required insurance in full force and effect.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0528 Bonding Requirements and Other Security.

All bonds required hereunder shall be in a form and executed by a corporate surety acceptable to the County and licensed to transact business as a surety within the State of California.

(a) Performance Bond. Within thirty (30) days of the granting of the license required under Section 42.057, the Licensee shall file with the Treasurer/Tax Collector a bond payable to the County, which shall be calculated as five percent (5%) of the annual projected gross revenue of the Licensee or ten thousand dollars (\$10,000) whichever is greater. Such bond shall be maintained in full force and effect at all times during the term of the license. Said bond shall ensure the faithful performance of the Licensee of the terms and conditions of the license and shall provide that, in the case of any breach of a condition of the license, the bond amount shall be applied to the County's damages and shall be payable to the County by the principals and sureties of the bonding company. Other security may be approved by the License Review Board in lieu of or in combination with the performance bond.

(b) Other security in Lieu of Bond. Licensee may request of the License Review Board that in addition to, and/or in lieu of, the performance bond as set forth under Section 42.0528(a), above, Licensee provide other security to the County in an amount not to exceed the bond amount as determined under Section 42.0528(a) above. Such other security must be in a form acceptable to the License Review Board, and at the License Review Board's sole discretion, may consist of cash, assignment of savings and loan certificates, certificates of deposits, irrevocable letters of credit, or U.S. Government securities. All such other security shall be made payable to the County and shall be deposited with the Treasurer/Tax Collector. The Licensee, however, shall be entitled to the return of such other security, less any accrued interest of any cash deposit held by County, or such portion thereof which remains on deposit, not later than one (1) year after the expiration of the term of the license, provided there is at that time no outstanding default on the part of Licensee.

(c) Review and Adjustment. The amounts of the performance bond and/or other security shall be subject to review and adjustment by the License Review Board, and the License Review Board, for reasonable cause, may adjust the amount at any time during the term of the license. In the event of such an adjustment, the Licensee shall renew said bond, within thirty (30) days after written notice to do so.

(d) Continuance of Performance Bond and/or Other Security Upon Transfer of License. Said performance bond shall continue to exist until replaced by a new performance bond or other security satisfactory to the County, or for one (1) year following the Board of Supervisors' approval of any sale, transfer, assignment, or other change of ownership of the license, or the expiration or termination of the license, whichever is sooner, for the purpose of assuring Licensee's faithful performance under the terms and conditions of the license prior to the date of approval of such change of ownership and/or of expiration or termination. The Treasurer/Tax Collector may release said bond

prior to the end of such one (1) year period upon authorization of the Department and satisfaction by the Licensee of all said obligations under the license.

(e) No Limitation of Licensee's Liability. In no event, shall the amount of any performance bond posted by Licensee be construed to limit the liability to the County of said Licensee or limit Licensee's obligation to faithfully perform the terms of the license.

(f) Other Bonds. Nothing in this section shall prohibit or preclude any other County agency from requiring Licensee to post a bond or other undertaking in connection with operations under its license.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0529 Recourse Against Bonds and Other Security.

Bonds and other security may be utilized by the County for the purposes, including, but not limited to, reimbursement of the County by reason of the Licensee's failure to pay the County any sums due under the terms of this chapter or the license, reimbursement of the County for reasonable costs borne by the County to correct license violations not corrected by the Licensee after due notice; and monetary remedies or damages assessed against the Licensee due to default or violations of the license requirements of this chapter.

(a) Recourse. In the event Licensee has been declared to be in default by the License Review Board under Section 42.0556(b), and if the Licensee fails, within thirty (30) days of mailing of the License Review Board's Finding, to pay the County any license fee, penalties, or monetary sanctions, or fails to perform any of the conditions of the license, the County may thereafter foreclose against the performance bond and/or withdraw from any other security an amount sufficient to compensate the County's damages, with interest at the legal rate. Upon such foreclosure or withdrawal, the County shall notify the Licensee in writing, by First Class Mail, postage prepaid, of the amount and date thereof.

(b) Restoration. Within thirty (30) days after mailing notice to the Licensee that the County has foreclosed Licensee's performance bond or that any amount has been withdrawn by the County from the other security pursuant to subsection (a) above, the Licensee shall deposit such further bond or sum of money, or other security, as the County may require, sufficient to meet the requirements of this chapter.

(c) Rights of the County. The rights reserved to the County with respect to any bond or security are in addition to all other rights of the County whether reserved by this chapter or authorized by law, and no action, proceeding, or exercise of a right with respect to any bond or other security shall constitute an election or waiver of any rights or other remedies the County may have.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0530 Indemnification.

(a) Claims for License-related Activities. A Licensee shall, by acceptance of any license granted, indemnify, defend, and hold harmless the County, its officers, boards, commissions, agents, and employees from and against any and all losses, damages, liabilities, claims, suits, costs and expenses, including reasonable attorney's fees regardless of the outcome of any such claim or suit arising from any act or omission on the part of the Licensee, its officers, employees, agents, or subcontractors arising from activities or work conducted pursuant to the license.

(b) Claims of Suppliers and Employees of Licensee. A Licensee shall indemnify, defend, and hold harmless the County and its officers, agents, and employees from and against any and all claims from losses whatsoever, including reasonable attorney's fees, accruing and resulting from any and all persons, firms, or corporations furnishing or supplying work, services, materials, equipment, or supplies in connection with work or activities conducted or performed pursuant to the license, and arising out of such activities or work, and from any and all claims or losses whatsoever, including reasonable attorney's fees, accruing or resulting from any person, firm, or corporation for damage, injury, or death arising out of Licensee's licensed operation.

(c) Nature of Claims. Such indemnification shall include, but not be limited to, all claims arising in tort, contracts, civil rights, infringements of copyright, violations of statutes, ordinances, regulations, or otherwise. Provided, however, that the County in its sole discretion may participate in the defense of any such claim at its own expense, and in such event, Licensee shall not agree to any settlement of claims without County approval.

(d) Exemption. Licensee shall not be required to indemnify the County for negligence or willful misconduct on the part of the County, or its officials, boards, commissions, agents, or employees.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0531 PEG Availability.

(a) License Conditional on PEG Availability. The grant of a license under this chapter shall be conditioned upon Licensee providing, at Licensee's expense, one (1) basic service cable drop to any government building within

the license area, including schools, within 750 feet of any existing cable distribution facilities, within a reasonable period after Licensee's receipt of a request from the agency operating or administering that site.

(b) Notification of PEG Availability. Prior to its initiating service within any newly constructed area, Licensee shall notify all government agencies having buildings within that area of the availability of cable access.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0532 PEG Utilization.

In accordance with Section 611 of the Cable Act, the County may, at no cost to the County, utilize a portion of the cable TV system's capacity and associated facilities and resources to develop noncommercial PEG cable TV services in the public interest, and the Licensee shall provide such capacity, facilities and resources upon the County's request. For this purpose, the County may additionally establish a commission, public corporation, or other entity to receive and allocate facilities, equipment, support funds, and other considerations provided by the County, the Licensee, and/or others. The County or such an entity, if established, may exercise the following responsibilities:

(a) To receive and utilize, or allocate for utilization, channel capacity, facilities, funding, and other support provided specifically for public usage of the cable TV system.

(b) To plan, prepare, coordinate and implement emergency communication during the event of an emergency or natural disaster within the County.

(c) Review the status and progress of each service developed for public benefits.

(d) Allocate resources jointly with the Licensee on a periodic basis to conform with changing priorities and public needs.

(e) Report to the County and the Licensee annually on the utilization of resources, new public services developed, and benefits achieved for the County and its residents.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0533 Periodic License Review.

At the County's sole option, the License Review Board may hold one or more public hearings as provided in Sections 42.0513 and 42.0514 at which the Licensee shall be present and shall participate, to review Licensee's compliance with the terms and conditions of its license and this chapter and the performance and quality of the service of the Licensee's cable TV system. The reports required by Section 42.0546 regarding subscriber complaints, the records of performance tests, and opinion survey reports may be utilized as a basis for review. In addition, any subscriber may submit comments or complaints during the reviews, either orally or in writing.

(a) Areas of Inquiry. Topics for review and discussion shall include, but shall not be limited to, license area and license area expansion, services provided, feasibility of providing new services, application of new technologies, system performance, programming, subscriber complaints, user complaints, rights of privacy, amendments to the license, undergrounding process, developments in the law and regulatory constraints.

(b) License Review Board Report. Not later than sixty (60) days after the conclusion of the license review hearings, the License Review Board shall issue its report which may include recommendations to the Licensee with regard to the inadequacies identified through the hearing process and set a timetable for Licensee to institute and complete corrective measures.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2754 (1983); Amended Ordinance #3440 (1991);

42.0534 Design and Construction Requirements.

(a) Design and Construction. The cable television system and all license property and appurtenances shall be designed, installed, constructed, and maintained using the current industry standard regarding components, materials, and methods. The Licensee shall at all times comply with all current applicable state, federal, and County standards. All of the Licensee's plant and equipment, including but not limited to, the antenna sites, head-end and distribution system towers, dwelling connections, structures, poles, wires, cables, coaxial cables, fixtures, and appurtenances shall be designed, located, installed, erected, constructed, reconstructed, replaced, removed, repaired, operated, and maintained in accordance with good engineering practices and such work shall be performed by experienced construction and maintenance personnel so as not to endanger or interfere in any manner with the rights of any property owner, or to hinder, or to obstruct pedestrian or vehicular traffic. The Licensee shall additionally comply with all applicable County construction codes and permit procedures. County shall be entitled to charge reasonable permit and inspection fees to recover processing and inspection costs incurred as a result of the construction of the cable TV system. Notwithstanding the granting of a license, the Licensee shall not be authorized to do any work under the license for which issuance of a permit is required unless and until such permit is issued for such work. The Licensee shall not have an absolute right to the issuance of such permits.

(b) Sanitation Facilities. For all construction or maintenance projects by Licensee requiring the Licensee and/or any subcontractor employed by the Licensee to be present on any work site continuously for four (4) hours or more, the Licensee or its subcontractor shall provide portable toilets for the use of the workers employed on such projects.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2754 (1983); Amended Ordinance #3440 (1991); Amended Ordinance #3497 (1992);

42.0535 Technical Standards and Requirements.

The cable television system shall be designed in accordance with the following:

(a) Cablecasting Capability. The Licensee shall provide cable-casting capabilities and facilities in accordance with requirements of Section 42.0532 of this chapter and the license.

(b) Signal Quality. The signals produced by the system shall be of high quality throughout the system using commonly accepted industry standards whether in close proximity to the head-end or the farthest extension of the trunk line. Licensee shall distribute in color those television signals which it receives in color. The system, as installed, shall be capable of passing standard black-and-white and color video channels with associated audio signals without material degradation and with no phase shift and no effect on color fidelity.

(c) Safety Requirements. The Licensee shall at all times utilize professional care and shall design, install, and maintain in use, devices and methods aimed at prevention of failures and accidents which may cause damage, injury, or nuisance to the public. Construction practices shall be in conformance with all applicable sections of federal and state occupational safety acts and any amendments thereto, as well as other state and county safety codes, where applicable.

(d) Interconnection. The County may request the Licensee to interconnect PEG channels of the cable television system with any and all other contiguous and compatible cable systems. Interconnection of system shall permit interaction transmission and reception of program material, and may be accomplished by direct cable connection, microwave link, satellite, or other technically feasible method. Each system component, whether as a part of a new system, as an extension of an existing system, or as a replacement for an existing system shall be designed to provide bi-directional interconnecting capability. Further, the system shall be designed to use the same broadcast spectrum frequency allocations for commonly provided television signals within the license area, so far as technically and economically feasible. In addition, every reasonable effort shall be made to provide local origination and access equipment which is compatible throughout the license area. The procedure relating to interconnection is set forth below:

(1) Upon receiving request of the County to interconnect, the Licensee shall immediately initiate negotiations with other affected system(s), and shall report to the County the results of such negotiations no later than sixty (60) days after initiation.

(2) Licensee may be granted additional reasonable extensions of time to interconnect, or the County may rescind its request to interconnect upon petition of the Licensee, if the County finds that the licensee has negotiated in good faith and has failed to obtain approval from the system(s) of the proposed interconnection, or that the cost of interconnection would cause an unreasonable financial burden as determined by the License Review Board upon the Licensee and/or its subscribers.

(3) The Licensee shall cooperate with any interconnecting corporation, regional interconnection authority or city, county, state, or federal regulatory agency which may hereafter be established for the purpose of regulating, financing, or otherwise providing for interconnection of cable systems beyond the boundaries of the license area.

(e) Emergency Override. The Licensee shall incorporate into its cable television system the capability to permit the County in times of emergency to override the audio portion of all channels simultaneously. In addition, the Licensee may be required to designate a channel, which may be a PEG channel, to be used for emergency broadcasts of both audio and video. The Licensee shall cooperate with the County in the use and operation of the emergency alert override system.

(f) Technical Documentation. Upon request of the Director, Licensee shall provide technical documentation of the cable television system as installed. Such documentation shall include, but is not limited to, head-end equipment and location, satellite receiving antenna location, and technical parameters, and the primary cable routing, but need not include each subscriber drop.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2754 (1983); Amended Ordinance #3440 (1991);

42.0536 Undergrounding of Cable.

The undergrounding and placement within conduits of all system cable is encouraged, and the County reserves the right to require undergrounding and placement of cable within conduit as a condition of the license. In any event, cable shall be installed underground at Licensee's cost in all license areas where utilities are already underground or

where required by law. Previously installed aerial cable shall be relocated and placed underground in concert with all other utilities.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0537 Street Occupancy.

(a) Notification of County Department of Transportation. The Licensee shall notify the County Department of Transportation at least ten (10) days prior to the fact, of intention of the Licensee to commence any construction in the streets. The County shall cooperate with the Licensee in granting any permits required, provided such granting and subsequent construction by the Licensee shall not unduly interfere with the use of such streets, and that proposed construction shall be accomplished in accordance with the County Code.

(b) Installation. All transmission lines, equipment, and structures shall be located and installed so as to cause minimum interference with the rights and reasonable convenience of property owners, and at all times shall be maintained in a safe condition, and in good order and repair. Suitable barricades, flags, lights, flares, or other devices shall be used at such times and places as are reasonably required for the safety of the public. Any poles or other fixtures placed in any street by the Licensee shall be placed in such manner as not to interfere with the usual travel on such public way.

(c) Pole Utilization. All pole construction and installation shall be in accordance with California Public Utilities Commission General Order No. 95, "Rules for Overhead Electric Line Construction".

(d) Interference with Use of Streets. In installing, locating, laying, or maintaining facilities, apparatus, or improvements, the Licensee shall not interfere with the use of any street to any greater extent than is necessary, and shall leave the surface of any such street in as good condition as it was prior to performance by Licensee of such work. Any facility, apparatus, or improvement under this license shall be laid, installed, located, or maintained in conformance with instructions given by, and to the satisfaction of, the Director of the County Department of Transportation or his deputy. In any event, the Licensee shall, at its own expense, and in a manner approved by the County, restore to County standards and specifications any damage or disturbance caused to streets as a result of Licensee's construction or operations.

(e) Tree Trimming and Landscaping. The Licensee shall have the authority, subject to the approval and supervision of the County Department of Transportation, to trim trees on public property at its own expense, as may be necessary to protect its wires and facilities. Licensee shall make prompt repairs and restoration to all landscaping within County rights-of-ways.

(f) Relocation/Removal. Upon receipt of thirty (30) days prior written notice, the Licensee, at its own expense, shall protect, support, temporarily disconnect, relocate, or remove any of its property when, in the judgment of the Director, the same is required by reason of traffic conditions, public safety, and/or improvements by governmental agencies. Nothing herein shall be deemed a taking of the property of the Licensee, and Licensee shall be entitled to no surcharge by reason of this section. After receipt of thirty (30) days prior written notice, upon failure of the Licensee to commence, pursue, or complete any work required by the provisions of this chapter to be performed on any street, within the time prescribed and to the satisfaction of the County, the County may, at its option, cause such work to be done, and the Licensee shall pay to the County the reasonable cost thereof, within thirty (30) days after receipt of demand.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0538 Test and Compliance Procedures.

Licensee shall obtain and submit upon request of the Director, the following reports:

(a) FCC Signal Performance. Licensee shall comply with all FCC signal performance standards, and as an aid to the County in monitoring the signal strength and quality, the Licensee shall provide the County with copies of all FCC signal performance reports. Should the FCC no longer require signal performance reports, the Licensee shall make and submit such performance tests and reports in response to written requests by the County.

(b) Special Tests. At any time after commencement of service to subscribers, the County or any other governmental regulatory agency may require additional tests, full or partial repeat tests, different test procedures, or tests involving a specific subscriber's terminal. Copies of all such test results shall be provided to the Director. Requests by the County for such special tests will be made on the basis of complaints received or other evidence indicating an unresolved controversy or significant noncompliance, and such tests shall be limited to the particular matter in controversy.

(c) Costs of Tests. The costs of all tests required above, and retesting as necessary, shall be borne by the Licensee.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0539 Service to Applicants.

Subject to the build-out requirements of Section 42.0521 of the San Bernardino County Code, and upon receipt of a request for basic service to any residence within the Licensee's service area, the Licensee shall promptly furnish requested service to such residents; such service shall be provided to any residence passed by the Licensee's active distribution cable within not more than twenty (20) days following Licensee's receipt of any request for service.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0540 Service Standards and Requirements.

The Licensee shall render such services to subscribers as will meet technical and performance requirements of this chapter and the license. At a minimum, the Licensee shall provide the broad category of services, and the mix, quality, and level of programming represented to the County in the application and made a part of the license agreement.

(a) Minimum Interruptions. The Licensee shall render efficient service, making repairs promptly and interrupting service only for good cause and for the shortest possible time. Any scheduled interruptions, insofar as possible, shall be preceded by notice given to subscribers by character generator or other means at least twenty- four (24) hours in advance and shall occur during periods of minimum use of the system.

(b) Continuous Service. The Licensee shall provide and maintain continuous service to subscribers unless otherwise allowed. The Licensee may petition the License Review Board subject to approval by the Board of Supervisors to authorize the suspension or abandonment of service upon such reasonable terms and conditions as may be prescribed. Nonpayment for services and/or signal piracy shall constitute grounds for termination of service without approval by the Board of Supervisors.

(c) System Down Notification. The Licensee shall promptly notify the Director when the cable television system is down, due to technical difficulties which may affect services to subscribers. The Licensee shall advise the Director, by telephone and/or in writing, of all scheduled maintenance which will cause disruptions in service and of any planned outages for more than four (4) hours duration.

(d) Emergency Personnel. Licensee must retain and have available emergency personnel capable of performing emergency repairs and maintenance at all times (i .e., twenty-four [24] hours a day, seven [7] days a week).

(e) Identification Required. The Licensee, its employees, agents, contractors, and subcontractors shall be clearly identifiable to the public as representatives of the Licensee prior to and during any entry on public or private property. Identification shall include the name and telephone number of the Licensee on all trucks and other vehicles used by installation and maintenance personnel.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0541 Consumer Service Standards.

The Licensee shall provide the necessary facilities, equipment, and personnel to comply with the following consumer standards under normal conditions of operation:

(a) Local Business Office. The Licensee shall maintain a local business office within the County and provide the Director with the name, address, and telephone number of the person(s) who will act as the Licensee's agent(s) for general management of the system and to receive complaints regarding quality of service, equipment malfunctions and other matters. The Licensee shall advise the County of any change of said agent(s) within five (5) working days of such change. The local office shall be open and staffed to receive inquiries or complaints, either by telephone or personally, and process bill payments from subscribers during normal business hours, Monday through Friday, State and Federal holidays excepted.

(b) Telephone. A toll-free telephone number shall be available at all times to all subscribers located within the license area for the reporting of problems. Said toll-free number shall appear on all billing statements issued by the Licensee and the Licensee shall also maintain, at Licensee's expense, a listing of Licensee's toll-free telephone number in both the white and yellow pages of a telephone directory serving the license area. The answering of all business phones shall be in accordance with NCTA Customer Service Standards. The Licensee shall provide sufficient telephone lines, either adequately staffed to answer all incoming calls or with mechanical answering capabilities, providing, at a minimum, emergency referral information. During periods when an answering machine is used, the Licensee shall provide on-call personnel who shall contact the answering machine every two (2) hours at minimum to check on requests for service and complaints; the Licensee shall respond to all calls for service or complaints received during normal business hours within four (4) business hours of receipt, and shall promptly investigate and resolve all calls for service and complaints. The Licensee shall maintain adequate telephone lines to insure access by subscribers within the Licensee's area, and shall not at any time incapacitate the system so as to prevent the receipt of telephone calls to Licensee's office.

(c) Bills and Refunds. Bills will be clear, concise, and understandable. Refund checks will be issued promptly, but no later than the earlier of forty-five (45) days or the subscriber's next billing cycle following the resolution of the request, and return of the equipment supplied by the Licensee if service is terminated.

(d) Appointments. Upon request of a subscriber or potential subscriber, the Licensee shall provide a service call or installation appointment within a four (4) hour time period, morning or evening. Should Licensee be unable to keep the appointment, the subscriber shall be notified at the earliest possible opportunity, and shall be rescheduled on a priority basis.

(e) Repair Service. The Licensee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled interruptions shall be preceded by notice by character generator or other means, and shall occur during periods of minimum use of the system, preferably between the hours of midnight and 6:00 a.m. A written log, or equivalent stored in computer memory and capable of access and reproduction, shall be maintained for all service interruptions and requests for cable service. Licensee shall provide a repair staff of technicians capable of addressing the following problems within the following time frames:

- (1) System Outage: Within two (2) hours, including weekends, of receiving subscriber calls;
- (2) Isolated Outage: Within four (4) hours, including weekends, of receiving requests for service;
- (3) Inferior Reception Quality: Within twenty-four (24) hours, including weekends, of receiving a request for service.

(f) Conduct Constituting a Response. The Licensee shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives at the service location and begins work on the problem. In the case of a subscriber not being at home when the technician arrives, response shall be deemed to have taken place if the technician leaves a written notification of arrival. No charge shall be made to the subscriber for any service call unless the service request can be demonstrated to be both repeated and nonsystem related in origin, or to involve subscriber negligence.

(g) Installation Staff. The Licensee shall maintain an installation staff capable of installing service to any subscriber.

(h) Verification of Compliance. Upon reasonable notice, the Licensee shall demonstrate to the Director compliance with all or any of the standards set forth above. The Licensee shall provide data in sufficient detail to permit the County to verify the extent of compliance.

(i) Noncompliance with Standards. A repeated and verifiable pattern of noncompliance with the consumer protection standards listed above, after Licensee receives due notice and an opportunity to cure, may be deemed a breach of the license subject to any and all remedies as prescribed in Section 42.0556 herein and applicable law.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991); Amended Ordinance #3497 (1992);

42.0542 Notice of Construction or Reconstruction.

Prior to the commencement of construction or reconstruction of the system, the Licensee shall notify all residents and property owners, at the Licensee's expense, of the intended construction activity. All notices shall be in writing and shall be issued as follows:

(a) General Notice. At least forty-five (45) days prior to the intended construction, a general notice indicating the type of construction, projected construction schedule, and proposed construction area(s) shall be posted by first class mail, postage prepaid, to all affected property owners and/or residents.

(b) Notice of Entry on Private Property. At least twenty-four (24) hours prior to entering private property or streets or public easements adjacent to or on such private property, a notice indicating the nature and location of the work to be performed shall be physically posted upon the affected property. The Licensee shall make a good faith effort to comply with the property owner/resident's preferences, if any, on location or placement of underground installations (excluding aerial cable lines utilizing existing poles and existing cable paths), consistent with sound engineering practices.

(c) Emergency Repairs. Notice requirements of subsections (a) and (b) above, are suspended for purposes of entry upon private property to perform repairs at the subscriber's request or in the event of system outage repairs or other emergencies in which insufficient time is available to provide notice to subscribers.

(d) Restoration of Property. After performance of work, Licensee shall restore private property as nearly as possible to its condition prior to construction. Any disturbance of landscaping, fencing, or other improvements on private property shall, at the sole expense of the Licensee, be promptly repaired and restored (including replacement of such items as shrubbery and fencing) to the reasonable satisfaction of the property owner.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0543 Notices to Subscribers.

As subscribers are connected or reconnected to the cable television system, and at least once annually thereafter, the Licensee shall provide each subscriber with written information concerning the following:

(a) **Inquiries and Complaints.** The Licensee shall provide written information concerning procedures for making inquiries or complaints, including the name, address, and local telephone number of the Licensee's employee(s) or agent(s) to whom such inquiries or complaints are to be addressed, and also furnish information concerning the department's responsibility for administration of the license, including the Director's name and the department's telephone number and address. The notice shall also indicate the Licensee's business hours, and procedures for responding to inquiries after normal business hours or during legal holidays that the Licensee's office is not open. The Licensee shall provide all subscribers and the Director written notice not less than thirty (30) days prior to any proposed change in these policies.

(b) **Billing and Refund Procedures.** A listing of all services, packages, and rates available at the time, including billing options and dispute procedures, refund procedures, and Licensee policies with respect to disconnection and reconnection services and charges shall be provided each subscriber. If the Licensee has elected to utilize line item charges for license fees, copyright, and other fees as permitted under Section 634 of Cable Act, any such listings, whether written or oral, shall disclose to the subscriber the total charges associated with receiving cable services. Any designation of license fees as a separate line item on the statement shall use the term "license fee." Prior to the issuance of any such notices, a copy shall be submitted to the Director for review and approval.

(c) **Lock Boxes.** Licensee shall provide notice of the availability of any devices required by federal, state, or local law such as, but not limited to, parental lock box device and/or switching device ("A/B" switch), and any fees or charges associated with receiving such devices.

(d) **Subscriber Privacy Rights.** A separate written notice containing the information regarding protection of subscriber privacy rights as specified in Section 631 of the Cable Act.

(e) **Disconnect Notice.** at least ten (10) days in advance of any discontinuance of service to subscriber for nonpayment, the Licensee shall provide the subscriber with a separate written notice. The notice shall contain the date, time and place at which payment must be made in order to prevent disconnection of service. In the event Licensee has improperly or inadvertently disconnected cable services to a subscriber, the Licensee shall provide for restoration without charge to the subscriber within not more than one (1) business day of the discovery of the disconnection.

(f) **Forwarding of Notices.** The notices required above (other than notices required under Section 42.0542) may be included in the mailing of the subscriber's billing statement.

(g) **Copies to County.** Sample copies of all notices provided to subscribers shall be filed annually with the Department.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2754 (1983); Amended Ordinance #3440 (1991);

42.0544 Termination of Subscriber Services.

Upon termination of any subscriber, the Licensee shall promptly remove all of its facilities and equipment, excepting drop cable and internal wiring, from the premises of such subscriber upon subscriber's request, except as provided in subsection (b), below.

(a) **Charges upon failure to recover equipment,** upon termination of services, should the Licensee not promptly collect its equipment from the premises of the subscriber, the subscriber shall not be charged for continued services, nor for failure to return any equipment.

(b) **Equipment Returns.** Should the Licensee require the subscriber to return the equipment, the Licensee shall establish convenient hours including convenient evening and weekend hours, for return of the equipment, and the subscriber shall have a reasonable length of time in which to return the equipment. The subscriber shall be advised of the date by which the equipment must be returned before a charge may be imposed for failure to return equipment.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2908 (1984); Amended Ordinance #3440 (1991);

42.0545 Subscriber Complaints to the Licensee.

The Licensee shall establish written procedures for receiving, acting upon, and resolving subscriber complaints. Such written procedures shall prescribe the manner in which a subscriber may submit a complaint either orally or in writing to the Licensee. A copy of these procedures shall be provided to all subscribers upon application for service as required pursuant to Section 42.0543. The procedures shall also inform the subscriber of the subscriber's right to file a complaint with the department in the event the subscriber is dissatisfied with the Licensee's action. No proceedings to resolve subscriber complaints shall be undertaken by the Department until the Licensee's complaint resolution procedures have been exhausted.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0546 Subscriber Complaint Procedure Requirements.

The Licensee's subscriber complaint procedures shall include, but not be limited to the following:

(a) Response to Subscriber Complaints. Except as provided in Section 42.0541(d), responses to subscriber complaints shall be initiated within one (1) business day of receipt. Resolution of the complaint, unless for good cause shown, shall be accomplished by the Licensee not later than five (5) business days after receipt of the complaint. If a subscriber has notified the Licensee in writing that a bill or any portion thereof is in dispute, the Licensee shall not terminate service pending resolution of the dispute, nor shall the account be turned over or reported to a collection agency, provided that the remaining balance of the bill is current. A bill shall not be considered in dispute solely by reason of nonpayment by the subscriber.

(b) Subscriber Complaint Record. The Licensee shall maintain a written and/or computerized subscriber complaint record containing the following information:

- (1) Date and time of subscriber complaint;
- (2) Identification of the complainant by name, address, and telephone number;
- (3) Description of the nature of the complaint; and
- (4) A record of when and what action was taken by the Licensee to resolve the complaint.

The complaint record shall be kept at the Licensee's local office for a period of three (3) years after receipt of any complaint. A copy of said subscriber complaint record shall be made available in accordance with applicable confidentiality laws by the Licensee to the Director upon his request.

(c) Outage Log. The Licensee shall maintain an outage log showing the date, approximate time and duration, type, and probable cause of all head-end, trunk, or distribution line service failures occurring within the calendar year. Each log shall be kept for a minimum period of three (3) years after the close of that calendar year. The log shall also include information relating to routine testing or scheduled maintenance outages. A copy of such outage log shall be provided by the Licensee to the Director upon request.

(d) Special Tests and Reports. When substantiated complaints result in an unresolved controversy involving significant noncompliance with license standards, or when circumstances exist which, in the judgment of the Director, cast doubt upon the reliability or quality of cable service, the Director may require the Licensee, at the Licensee's cost, to test, analyze, and provide a written report on the performance of the system as provided in Section 42.0538. Said report shall be delivered to the Director, no later than thirty (30) days after the Licensee is notified in writing of the required report. The Director may require at Licensee's expense that these tests and analyses be supervised by an independent professional engineer acceptable to the County. Test reports shall be forwarded to the Director with interpretation of the test results and recommending actions to be taken.

(e) Subscriber Terminal Tests. The Licensee shall, upon reasonable request or complaint by a subscriber, perform such tests as necessary at the subscriber's terminal to establish whether a signal of requisite quality is being delivered to the subscriber's premises. The results of such test(s) shall be communicated to the subscriber as soon as the test is completed and evaluated, and in no event later than ten (10) days after the test has been concluded.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0547 Subscriber Complaints to the County.

A subscriber who is dissatisfied with the Licensee's proposed resolution of a complaint, or who has not received a response from the Licensee within the five (5) day period as required under Section 42.0546(a), shall be entitled to have the complaint reviewed by the County. The subscriber shall initiate the review process by filing a written complaint, together with the Licensee's written decision, if any, with the Department, and the Department shall notify the Licensee of such filing.

(a) Review by Division of Consumer Affairs. Upon the Department's receipt of the subscriber's complaint, the Department shall, within five (5) days, forward the complaint to the Division of Consumer Affairs, which shall review the subscriber's complaint and Licensee's decision, and shall attempt to mediate the dispute. In the event resolution of the dispute is not possible, the Division shall refer the matter back to the Department for hearing by the License Review Board, which shall hear the dispute within not more than ninety (90) days following referral of the dispute from the Division.

(b) License Review Board Findings Final. Decisions of the License Review Board with respect to consumer complaints shall be final.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0548 Rights Reserved to the County.

The rights reserved to the County set forth below are in addition to all other rights of the County, whether reserved herein or otherwise authorized by law, and no action, proceeding, or exercise of a right shall affect any other rights which may be held by the County. Licensee, by acceptance of the license, agrees to be bound thereby and to comply with any action or requirement of the County in its exercise of any such right or power.

(a) Delegation of Authority. The County may exercise or delegate its regulatory power to a subordinate body of its officers, employees, agencies, committees, or departments to insure the proper implementation of this chapter.

(b) Governing Rules and Regulations. The County shall have the power and right at all times for the duration of the license to require the Licensee to conform to the rules and regulations governing the operation of the cable television systems now or hereafter adopted by the Board of Supervisors.

(c) Establishment of New Requirements. The County may establish additional requirements for new licenses or license renewals, and may modify requirements from time to time to reflect changing conditions and the industry standards.

(d) Waiver of Established Requirements. The County shall have the right to waive any provision of the license, except those required by Federal or State Regulation, if the Board of Supervisors, in their discretion, determines that it is in the public interest to do so.

(e) County Inspections. The County shall have the right to inspect all cable television system construction or installation, and to make such tests as it shall find necessary to ensure compliance with the terms of the license and other applicable provisions of law.

(f) Intervention by County. The County shall have the right of intervention in any suit or proceeding involving a cable system or license to which a County Licensee is a party.

(g) Street Improvements. The County reserves the right to improve any street, or other public place, or other portions thereof, over and within which the license is granted, including the widening, change of grade, change of alignment, construction or reconstruction of such street, or any portion thereof, and the County further reserves the right to construct, or reconstruct, install, repair and maintain any such street, or other public places, or any portions thereof.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0549 Rights of Subscribers.

(a) Discrimination by Licensee. The Licensee shall not deny service, deny access, or otherwise discriminate against subscribers, PEG channel users, or general citizens on the basis of income, race, color, religion, national origin, age or sex. The Licensee shall comply at all times with all other applicable federal, state, and local laws and regulations, and all executive and administrative orders relating to nondiscrimination, which are hereby incorporated in and made a part of this chapter by reference.

(b) Rights of Tenants. Tenants shall not be discriminated against in the ability to subscribe to cable services. Licensee shall be required to provide tenants in individual units of multiple housing facilities with all services offered to other dwelling units within the license area, so long as the owner of the multiple housing facility consents in writing, if requested by the Licensee, to the following:

(1) The Licensee's providing service to units of the facility.

(2) Reasonable conditions and times for installation, inspection, and maintenance of the system on the facility premises.

(3) Reasonable conditions promulgated by the Licensee to protect Licensee's equipment and to encourage widespread use of the system.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0550 Equal Employment Opportunities.

The Licensee shall strictly adhere to equal employment opportunity requirements of federal, state, and local laws and regulations in effect on the date of the license grant, and as amended from time to time.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0551 Continuity of Service.

It shall be the right of all subscribers to continue receiving service insofar as *their* financial and other obligations to the Licenser are honored. In the event that the Licensee elects to overbuild, rebuild, modify, or sell the system, or the County gives notice of intent to terminate or fails to renew the license, the Licensee shall act so as to ensure that all subscribers receive continuous, uninterrupted service.

(a) Change of Licensee. In the event of a change of Licensee, or in the event a new operator acquires the system, the original Licensee shall cooperate with the County and the new owner or operator in maintaining continuity of service to all subscribers.

(b) County Operation. In the event the Licensee fails to operate the system for seven (7) consecutive days without prior approval of the Director, or without just cause, the County may, at its option, and in addition to any other rights provided for in this chapter, seek a court-appointed receiver to operate and to collect all revenues from the system until such time as the Licensee can restore service under conditions acceptable to the County, or a replacement operator is selected. The Licensee shall reimburse the County for all reasonable costs or damages that are the result of the Licensee's failure to perform.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0552 Retention of Licensee's Records.

(a) Retention Periods. The Licensee shall establish, keep, and maintain books, accounts, papers, maps, and other records which relate to the operations, transactions, property, or financial condition of the Licensee with respect to its activities under the license issued pursuant to this chapter for a period in accordance with the following schedule:

(1) Fifteen (15) years: License, amendments to the license, license applications and related materials, construction maps, documents filed or presented to the License Review Board or Board of Supervisors, and records relating to bonds or other security;

(2) Seven (7) years: Financial information, including, but not limited to, annual reports of the Licensee, License Fee Reports, records of gross receipts, balance sheets, receipts, income, and disbursements; and

(3) Three (3) years: All other records required under this chapter unless otherwise specified.

(b) Inspection of Records. The County or its authorized representative, upon reasonable notice, shall have the right to inspect at any time during normal business hours the books, records, maps, plans, service complaint logs, performance test results, and any other records of the Licensee which relate to the operations of the Licensee and which are maintained at the local office required by this chapter. If any such books or records are not kept in the local office, or if on reasonable request, are not made available to County inspection within the County, and if the County shall determine that an examination of such records is necessary or appropriate to the performance of the County's responsibilities hereunder, then all reasonable travel and subsistence expense necessarily incurred in making such an examination by the County shall be paid by the Licensee.

(c) Confidentiality. County shall maintain the confidentiality of any trade secrets or other proprietary information of Licensee in the possession of the County, and further, records shall be exempt from public inspection pursuant to this section to the extent such records are made except from public disclosure by state or federal statute and to the extent such records are protected by state or federal statute against discovery in civil litigation.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0553 Licensee Reporting Requirements.

The Licensee shall be responsible for the preparation and timely submission to the Director of the following designated reports:

(a) Annual Reports. Within one hundred and twenty (120) days after the close of the Licensee's fiscal year, the Licensee shall submit a written annual report in such form as established by the Director, including, but not limited to, the following:

(1) A summary of the previous year's (or in the case of the initial report year, the initial year) activities and development of the cable system, including services begun or discontinued during the reporting year, and the number of subscribers for each class of service.

(2) A revenue statement, audited by an independent certified public account, or certified by an officer of the Licensee.

(3) A statement of projected construction, if any, for the next two (2) years.

(4) A list of the Licensee's officers, members of its board of directors, and other principals.

(5) A list of stockholders or other equity investors holding five percent (5%) or more of the voting interest of the Licensee and/or its parent (unless its parent is a public corporation whose annual reports are publicly available), affiliated corporations, and other entities, if any.

(b) Periodic Reports. The Licensee shall furnish to the Director progress reports and maps indicating in detail the location of existing construction of the system. Such periodic reports and maps shall be furnished at six (6) months intervals beginning with the effective date of the license.

(c) License Payment Report. The Licensee, during the entire term of the license, within sixty (60) days after the expiration of each License Payment Period, shall file with the Treasurer/Tax Collector and the Department a License Payment Report, verified by oath of the Licensee or by the oath of a duly authorized representative of the

Licensee, setting forth in detail the computation of the amount of Licensee payment due for the immediately preceding payment period. The report shall be completed on a form provided by the Director.

(d) Public Reports. If public reports are issued, a copy of each of the Licensee's annual and other periodic public financial reports and those of its parent, subsidiary and affiliated corporations and other entities, if any, shall be submitted to the County within thirty (30) days after receipt of the County's request.

(e) Federal and State Reports. The licensee may be required to submit to the County copies of pleadings, applications, notifications, communications, and documents of any kind, submitted by the licensee, and copies of all decisions, correspondence, and actions by, any federal, state, or local courts, regulatory agencies, or other government entities relating to its cable television operations within the license area. The Licensee shall submit such documentation to the County not later than thirty (30) days after receipt of a County request to do so.

(f) Cost of Reports. All reports and records according to this or any other section of this chapter shall be furnished at the sole expense of the Licensee.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0554 Severability.

If any provision of this chapter, the license, or application of the license to any person or circumstance is held invalid by a court of competent jurisdiction or is not in compliance with any requirement of the Public Utilities Commission of the State of California, FCC, or any other federal or state body or agency having jurisdiction over Licensee's license activities, the remainder of this chapter or the license, or application of the license to persons or circumstances, other than those to which it is held invalid or not in such compliance, shall not be affected thereby.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0555 Force Majeure.

In the event Licensee's performance of any of the terms, conditions, obligations, or requirements of its license is prevented or impaired due to acts of God or civil emergencies, which are beyond Licensee's control and not reasonably foreseeable, such inability to perform shall be deemed excusable and no penalties or sanctions shall be imposed as a result thereof, provided the Licensee has notified the Department in writing within thirty (30) days of discovery of the occurrence of such an event. In the event Licensee must suspend service as the result of such force majeure, Licensee shall make every reasonable effort to effect repairs, and restore service to its subscribers as soon as possible thereafter. In the event Licensee cannot restore service to its subscribers within ninety (90) days following the occurrence of such an event, the Director may initiate proceedings under Sections 42.0523 or 42.0556 to modify or terminate Licensee's license.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0556 Civil Penalties, Default and Revocation Proceedings.

If Licensee fails to perform any obligation under the License, or under this chapter, or fails to do so in a timely manner, the Department may, at its sole option, and at its sole discretion declare a default and seek the following:

(a) Notice of Default. Upon Licensee's breach of the terms of its license or violation of this chapter, the Department shall mail to the Licensee's last known business address by First Class Mail, postage prepaid, a Notice of Default. Said notice shall describe the nature of the Licensee's default and specify such remedial action as may be necessary for the Licensee to cure said default. Licensee shall have ninety (90) days from the date of the Notice of Default's mailing in which to cure the default. In the event Licensee has failed to cure the default, the Department may submit the matter to the License Review Board for further proceedings.

(b) License Review Board Hearings. In the event that a Notice of Default is mailed to Licensee as set forth in subsection (a) above, the Department may, no earlier than sixty (60) days following its mailing of a Notice of Default, file a written accusation with the License Review Board with a copy to the Licensee, requesting a hearing and setting forth the grounds for such proceedings. The Licensee may, within thirty (30) days following the Department's mailing of the accusation, file with the License Review Board a written response to said accusation admitting and/or denying the allegations therein and setting forth any affirmative defenses Licensee may have. Not later than sixty (60) days after any such accusation has been received by it, a public hearing pursuant to Sections 42.0513 and 42.0514 shall be held on the accusation by the License Review Board. The License Review Board shall, within thirty (30) days following the public hearing, either dismiss the accusation, assess monetary sanctions, or recommend revocation of the license to the Board of Supervisors, and shall notify the Licensee in writing of its decision by First Class Mail, postage prepaid. Determinations of the License Review Board may be appealed to the Board of Supervisors within thirty (30) days of the License Review Board's decision.

(c) Monetary Sanctions. For any violation of the terms of this chapter or the terms of the license, and as an alternative to revocation of the license, the License Review Board may assess against the Licensee monetary sanctions in an amount not to exceed thirty percent (30%) of the license fee paid for the preceding year. Assessment of sanctions shall not constitute a waiver by the County of any other right or remedy it may have under the license or under applicable law, including without limitation, its right to recover from the Licensee such additional damages, costs and expenses, under this chapter including actual attorney fees, that may have been suffered or incurred by the County by reason of or arising out of such breach of the license or this chapter.

(d) License Revocation/Suspension. The County may revoke or suspend any license for cause. For the purposes of this section, any breach of the license or this chapter shall constitute cause. In the event the License Review Board shall recommend revocation or suspension, the Board of Supervisors shall conduct a public hearing within forty-five (45) days following its receipt of the License Review Board's recommendations, and shall within thirty (30) days of the public hearing make its determination either to: (1) Dismiss the revocation proceedings; (2) Suspend the license subject to Licensee's performance of such condition(s) consistent with this chapter as the Board of Supervisors may impose; or (3) Revoke the license.

(e) Effect of Revocation. Upon revocation and during suspension of a license by the Board of Supervisors, the Licensee shall immediately cease all operations under the license, and the license shall be considered null and void. Any continued operations requiring a license under this chapter, shall be considered a violation of the County Code and subject the Licensee to such criminal and civil penalties, including injunctive relief, as may be appropriate.

(f) No Limitation of County's Rights. Any or all of the above enumerated measures against Licensee shall be in addition to any and all other legal or equitable remedies the County has under the License or under applicable law.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2717 (1982); Amended Ordinance #3440 (1991);